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EXAMINER

BROWN, TIMOTHY M

ART UNIT PAPER NUMBER

1648

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10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/634,566

Applicant(s)

SEAMAN ET AL.

Examiner

Tim Brown

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Final Office Action is responsive to Applicants' reply submitted November 20, 2003 ("Reply").

Response to Arguments

Claims 1, 8-13 and 20

Applicants argue Walker fails to teach "providing an interface by which a first party identifies attributes of a particular service to be shared with a second party and to be provisioned by the service provider" as recited in claim 1. Reply, p. 11. Applicants particularly note Walker fails to teach how the services are provided or how they may be shared. Reply, p. 12. The Examiner respectfully disagrees.

First, the Examiner notes claim 1 fails to recite any steps that define how the service is to be shared. Rather, claim 1 merely requires a teaching of selecting a service that is to be shared. Walker teaches this step. According to Walker, a user is provided with an interface that allows him to generate a CPO by selecting a number of service attributes. Thus, Walker teaches identifying a service. Furthermore, Walker teaches that the identified service is "to be shared." Walker aggregates a number of CPOs for a common service, such as air travel, to allow users to obtain "group discounts and other benefits associated with volume purchases." Thus, Walker clearly teaches that the service a user identifies will be shared with other members of the group. Therefore, Walker teaches "providing an interface by which a first party identifies

attributes of a particular service to be shared with a second party and to be provisioned by the service provider” as recited in claim 1.

Applicants also argue Walker fails to teach “offering participation in the particular service to a second party via an interface by which the second party may signal acceptance of the particular service.” In particular, Applicants note Walker is silent on their offering step. Reply, p. 12. The Examiner respectfully disagrees.

First, Walker teaches “offering participation in the particular service to a second party.” This is clear from the fact that Walker communicates to a user an indication that a service is available, and that the user may obtain it by revising his previously submitted CPO. See col. 13, lines 56-69; and Fig. 13B, chars. 1322, 1324 and 1326. Furthermore, Walker teaches that the user may signal acceptance of the particular service. This follows from the fact that by submitting a revised CPO, the user signals that he has accepted the available service. Therefore, Walker teaches “offering participation in the particular service to a second party.”

Applicants finally argue that Walker fails to teach “if acceptance by the second party of the particular service is signaled, then executing a process to provision the particular service for the first party and the second party.” Reply, p. 12.

The Examiner notes the recitation of “if” makes this limitation is conditional and therefore only further limits the claim if the recited condition is satisfied. In other words, the claim supports two interpretations; one where the second user signals acceptance, and another where no acceptance is signaled by the second user. Applying the second interpretation to claim 1, there is no further limitation of the claim. Therefore, Walker

need not teach “executing a process to provision the particular service for the first party and the second party” in order to anticipate the claim. Accordingly, Applicants’ arguments with respect to this limitation are moot.

With respect to claim 8, Applicants argue Walker fails to teach sending attributes of a particular service to be shared with a second party and to be provisioned by the service provider. The Examiner respectfully disagrees. First, the Examiner notes Walker teaches “a particular service to be shared with a second party” as noted above. Second, Walker teaches sending attributes of the particular service. This is clear in that Walker’s airline embodiment provides that users may select a number of flight criteria including departure and arrival times, origin and destination cities, and whether connecting flights are acceptable. Col. 4, lines 46-54. Accordingly, Walker teaches sending attributes of a particular service to be shared with a second party and to be provisioned by the service provider.

Regarding claim 20, Applicants argue Walker does not teach sharing of services, or communication among the parties as to how the services are to be shared. As noted under claim 1 above, Walker teaches a service to be shared as required by Applicants’ invention. Furthermore, claim 20 is directed to “providing information via said interface by which said second party may signal acceptance,” wherein “the information [is] associated with said offering from the first party for use by the second party.” Walker teaches this step as follows. First, Walker teaches providing a user with an indication that a service is available, and that it may be obtained by having the user submit a revised CPO. Thus, Walker teaches “providing information via said interface by which

said second party may signal acceptance.” Second, Walker provides that “the information is associated with said offering from the first party for use by the second party.” The information (i.e. indication that a service is available) is associated with the offering from the first party in that the information may include a request that the buyer modify his CPO to meet the conditions of the CPO offered by at least one other user. Col. 13, lines 50-60. Therefore, Walker teaches the sharing of services, and communication among the parties as to how the services are to be shared.

Claims 4-7 and 14-19

Applicants argue the Examiner’s rejection of claims 4-7 and 14-19 comprises impermissible hindsight reasoning. Reply, p. 14. However, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicants request that the Examiner “provide evidence to support the Official Notice taken “that can be fairly applied in the context of the present claims.” Reply, p. 14. Assuming this request is an attempted traverse of the Examiner’s reliance of Official Notice, it is inadequate. MPEP §3144.03 provides that “[t]o adequately traverse such a finding, an applicant must specifically point out the supposed errors in the

examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." The Manual of Patent Examination Procedure, §3144.03, Eighth Edition (February 2003). In the present case, Applicants have only requested the examiner provide evidence in support of the facts officially noted. Applicants have not specifically, or otherwise, pointed out any errors in the Office Action or why the officially noted facts are not well known. Accordingly, Applicants' traverse is inadequate.

With respect to claim 4, Applicants argue Walker is unrelated to the provisioning of services by a service provider to be shared between parties. Reply, p. 14. However, the Examiner submits Walker teaches this feature as discussed under claim 1. Walker is therefore clearly related to the process of claim 4.

Applicants argue the rejection of claim 5 under Walker and Official Notice is improper because the Office Action does not discuss how a logical instance defining a class can be applied to the sharing of services recited in claim 1. The Examiner respectfully disagrees in that the Office Action states that providing Walker with a logical instance defining a class "would enable users to identify a service of interest to potential service providers as well as other users." Paper No. 7, p. 6.

With respect to claims 14-19, Applicants argue Walker does not teach the recited services. However, a careful reading of the Office Action reveals the Examiner took Official Notice of the fact that the services of claims 14-19 are old and well known. Therefore, Applicants' argument that Walker fails to teach the services recited in claims 14-19 is moot.

Claims 2 and 3

Applicants argue the rejection of claims 2 and 3 under Walker in view of Shing is improper because Shing is unrelated to the provisioning of particular services to be shared between parties. However, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Applicants invention is directed to providing an online venue for distributing services to a plurality of users. Shing is directed to an online service that automatically distributes software updates. Thus, Applicants' invention and Shing are both concerned with facilitating the distribution of services via a communication network. Therefore, Shing is clearly within the field of Applicants' endeavor.

Applicants further argue Teng does not overcome the teachings of Walker because Teng does not teach that its software is shared among the clients. Reply, p. 17. However, claim 2 fails to include any language that indicates the services are actually shared. In fact, the language of independent claim 1 states that the services are "to be shared." Such language is precatory and only describes the party's subjective state. That is, "to be shared" only refers to what the first party intends to with the particular service. Claim 2 therefore does not require the services to actually be shared. Accordingly, Applicants' argument that Teng fails to teach sharing software among clients is moot.

Again regarding claim 2, Applicants argue there is no discussion in Walker as to how the first and second parties establish a connection with the service provider. The Examiner respectfully disagrees. For example, claim 2 broadly recites "establishing a connection . . . according to parameters of a service provider account with the first party." Walker teaches first and second party interfaces that are connected to a central server by an Internet connection or public telephone switched network. Col. 9, lines 57-62. Either means of communication requires the first and second party to establish an account with a service provider such as a telephone company. Accordingly, Walker teaches the manner in which the first and second party establish a connection with the service provider.

Claims 21, 27-31 and 37

Applicants argue Walker and Teng fail to teach claim 21's having the parties interact to share a service that is provided by a service provider. However, claim 21 fails to recite that the services are actually shared. See discussion of "to be shared" under claims 2 and 3. Furthermore, claim 21 fails to recite that the first and second parties interact with one another. Accordingly, Applicants' argument that Walker and Teng fail to teach claim 21's having the parties interact to share a service is moot.

Applicants argue Teng does not relate to establishing a shared service provided by the download server. However, as noted above, claim 21 does not require that a service actually be shared. Also, Teng teaches distributing software to a network client

Art Unit: 1648

using a server. See Abstract; and col. 5, lines 59-66. Accordingly, Teng teaches establishing a shared service provided by the download server as recited in claim 21.

Claims 22-26, 33-36, 38, 40, 43 and 45-54

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicants request that the Examiner provide evidence in support of the Official Notice taken in the rejection of the claims. However, as noted above, Applicants' attempted traverse does not specifically point out any errors in the Office Action or why the officially noted facts are not well known. Accordingly, Applicants' traverse is inadequate.

Applicants argue none of the cited references are similar to claim 38. However, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir.

1992). In this case, both Walker and Teng are related to the online distribution of services. Applicants' invention is similar to Walker and Teng in that it is directed to procuring a service over a communication network. Accordingly, Walker and Teng are clearly in the field of Applicants' endeavor.

Applicants argue Walker does not relate to an offering from a first party for use by other parties independent of the service provider as set forth in claim 54. Reply, p. 18. The Examiner respectfully disagrees. Walker teaches a CPO management system wherein users submit individual CPOs which may subsequently be aggregated. Abstract. Walker further provides that the aggregation of CPOs enables users to obtain group discounts and other benefits associated with purchasing in volume. Col. 4, lines 55-60. Because a first user's CPO may be aggregated with at least one party's CPO to achieve a group benefit, the first user's CPO (i.e. offer) is used by other parties without any input from the service provider. In other words, subsequent parties use the first party's CPO to gain a group discount. Accordingly, Walker at least *relates* to an offering from a first party for use by other parties independent of the service provider as set forth in claim 54.

Claims 39, 41 and 44

Applicants argue the Examiner's reliance on McMillen and Husak is improper since neither reference relates to the provisioning of services. Reply, p. 19. However, the Examiner notes that the provisioning of services only occurs if acceptance of the particular communication channel is signaled. See independent claim 38, line 16.

Art Unit: 1648

Accordingly, neither McMillen nor Husak need to relate to the provisioning of services if acceptance of a particular communication channel *is not* signaled. Accordingly, Applicants' argument that neither McMillen nor Husak is related to the provisioning of services is moot.

Claim 42

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 8-13 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (US 6,418,415) ("Walker").

Regarding claim 1, Walker teaches a method for provisioning services offered by a service provider for a plurality of parties, comprising:

providing an interface by which a first party identifies attributes of a particular service to be shared with a second party and to be provisioned by the service provider (Abstract; col. 4, lines 27-30, 41-43 and 46-54);

offering participation in the particular service to the second party via an interface by which the second party may signal acceptance of the particular service (col. 5, lines 19-34); and

if acceptance by the second party of the particular service is signaled, then executing a process to provision the particular service for the first party and the second party (Fig. 14b and col. 15, lines 53-65).

Regarding claim 8, Walker teaches the method of claim 1, including sending the attributes of the particular service to the service provider for use in provisioning the particular service for the first and second parties (Abstract; and col. 4, lines 27-30, 41-43 and 46-59).

Regarding claim 9, Walker teaches the method of claim 1, wherein the particular service is arranged for at least one additional party in addition to the first and second parties, including:

offering participation in the particular service to the at least one additional party via an interface by which the at least one additional party may signal acceptance the particular service (col. 5, lines 19-34); and

if acceptance by the at least one additional party of the particular service is signaled, then executing a process to provision the particular service for the at least one additional party (Fig. 14b; and col. 15, lines 53-65).

Regarding claim 10, Walker teaches the method of claim 1, wherein said providing an interface includes establishing a server, available to the first party via a public network, to manage the interface (see Abstract).

Regarding claim 11, Walker teaches the method of claim 10 wherein the server comprises an internet server available to the first party using an internet browser (*Id.*).

Regarding claim 12, Walker teaches the method of claim 1, wherein said interface comprises an electronic document (*Id.*).

Regarding claim 13, Walker teaches method of claim 12, wherein the electronic document includes objects compliant with a hypertext markup language HTML standard (*Id.*).

Regarding claim 20, Walker teaches the method of claim 1, including providing information via said interface by which said second party may signal acceptance, the information being associated with said offering from the first party for use by said second party independent of the service provider. (See Abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Official Notice.

Regarding claim 4, Walker teaches all the limitations discussed under claim 1. Walker does not expressly teach a method for provisioning services wherein the services comprise communication services, and the attributes of the particular service include parameters of a communication channel using communication resources of the service provider. However, Walker discloses that its method can be used for goods *and* services (see Abstract). Enabling Walker to provide communication services would make its method applicable to a wider range of services. Consequently, it would have been obvious at the time of Applicants' invention, to modify Walker to include the provisioning of communication services in order to expand Walker's method to the application of a different service.

Regarding claim 5, Walker teaches all the limitations discussed under claim 1. Walker does expressly teach prompting a user to create a logical instance of the particular service. However, the Examiner takes Official Notice that creating a logical instance for the purpose of defining a class is old and well known in the programming

art. Providing Walker with the ability to define a class would enable users to identify a service of interest to potential service providers as well as other users. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker to include prompting a user to create a logical instance of the particular service.

Regarding claims 6 and 7, Walker teaches all the limitations under claim 5. Walker does not expressly teach a method of provisioning services "wherein said offering includes displaying an image prompting a user to create a logical connection to the logical instance of the particular service to signal acceptance on behalf of the second party." The Examiner submits creating a logical connection to a data item is old and well-known. By prompting a user to create a logical connection to the logical instance of the particular service to signal acceptance on behalf of the second party would allow the second user to identify and contract for a particular service.

Regarding claim 14, Walker teaches all the limitations discussed under claim 13. Walker does not expressly teach communicating with users through XML protocol. However, providing electronic communication through XML is old and well known. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker to include XML protocol in order simplify the programming of the data exchange protocol.

Regarding claims 15, 16, 18 and 19, Walker teaches all the limitations discussed under claim 1. Walker does not expressly teach the provisioning of electronic power delivery, fuel delivery, water delivery and/or secure communication bandwidth delivery.

Art Unit: 1648

However, Walker provides that its method can be used for providing goods *and services* (see Abstract). Enabling Walker to provide for the delivery of various services would extend the benefit's of its method to a wider range of services. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify Walker to include the provisioning of electronic power delivery, fuel delivery, water delivery or secure communication bandwidth delivery.

Regarding claim 17, Walker teaches all the limitation discussed under claim 1. Walker does not expressly teach providing a secure internet protocol. However, the Examiner takes Official Notice that providing secure internet communication is old and well-known in the art. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker to include providing a secure internet protocol in order to prevent unauthorized access to sensitive information such as payment data.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Shing et al. (US 5,495,610) ("Shing").

Regarding claim 2, Walker teaches all the limitations discussed under claim 1. Walker does not expressly teach "establishing a connection between the service provider and the first party for delivery of services according to parameters of a service provider account with the first party; and establishing a connection between the service provider and the second party for delivery of services according to parameters of a service provider account with the second party." However, Shing teaches a system for

software distribution wherein the system determines the compatibility of the receiving hardware configuration prior to distributing the software (col. 7, lines 26-34). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify Walker to include the teachings of Shing. This combination would extend Walker's method to the online distribution of software.

Regarding claim 3, Walker and Shing teach all the limitations discussed under claim 2. Walker does not expressly teach verifying that the service provider accounts of the first party and of the second party support the particular service. However, Shing teaches this feature as discussed under claim 2. Combining Walker with the teachings of Shing would ensure that the first party's system can utilize the provided service.

Claims 21, 27-31 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Teng et al. (US 5,495,610) ("Teng").

Regarding independent claim 21, Walker teaches all the limitations discussed under independent claim 1. Walker does not expressly teach establishing connections between the service provider and a plurality of parties *according to parameters of respective service provider accounts*. However, Teng teaches a system for distributing software to network clients. According to Teng, the network client sends a formatted request message to a distributing server wherein the request message identifies the architecture of the network client's operating system and processor (see Abstract). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker to include Teng's teaching of establishing connections

between the service provider and a plurality of parties according to parameters of respective service provider accounts. This combination would allow Walker to provide network services to clients through a variety of connection configurations.

Regarding claim 27, Walker teaches including sending the attributes of the particular service to the service provider for use in provisioning the particular service for the first and second parties (Abstract; and col. 4, lines 27-30, 41-43 and 46-59).

Regarding claim 28, Walker teaches providing an interface including establishing a server available to the first party via a public network, to manage the interface (see Abstract).

Regarding claim 29, Walker teaches the server comprises an internet server available to the first party using an internet browser (*Id.*).

Regarding claim 30, Walker teaches an interface comprising an electronic document (*Id.*).

Regarding claim 31, Walker teaches an electronic document including objects compliant with a hypertext markup language HTML standard (*Id.*).

Regarding claim 37, Walker teaches providing information via said interface by which said one or more other parties may signal acceptance, the information being associated with said offering from the first party for use by said one or more other parties independent of the service provider (*Id.*).

Claims 22-26, 33-36, 38, 40, 43 and 45-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Teng and Official Notice.

Regarding claim 22, Walker and Teng teach all the limitations discussed under claim 21. The combination of Walker and Teng does not expressly teach services comprising communication services, and the attributes of the particular service include parameters of a communication channel using communication resources of the service provider. However, the Examiner notes it would have been obvious to modify Walker and Teng to include this feature as discussed under claim 4.

Regarding claim 23, Walker teaches all the limitations discussed under claim 21. Walker does not expressly teach prompting a user to create a logical instance of the particular service. However, the Examiner takes Official Notice that creating a logical instance for the purpose of defining a class is old and well known in the programming art. Providing Walker with the ability to define a class would enable users to identify a service of interest to potential service providers as well as other users. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker to include prompting a user to create a logical instance of the particular service.

Regarding claims 24 and 25, teaches all the limitations discussed under claim 23. Walker does not expressly teach a method of provisioning services "wherein said offering includes displaying an image prompting a user to create a logical connection to the logical instance of the particular service to signal acceptance on behalf of the second party." However, the Examiner submits that creating a logical connection to a

Art Unit: 1648

data item is old and well-known. By prompting a user to create a logical connection to the logical instance of the particular service to signal acceptance on behalf of the second party would allow the second user to identify and contract for a particular service.

Regarding claim 26, Walker, Teng and Official Notice teach all the limitations discussed under claim 24. Walker and Teng do not expressly teach an interface including constructs by which said one or more other parties may indicate a location for connection to the particular service. However, the Examiner takes Official Notice that identifying a client system, as by an Internet cookie, is old and well-known in the art. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify the combination of Walker and Teng to include an interface including constructs by which said one or more other parties may indicate a location for connection to the particular service in order to automatically identify service recipients.

Regarding claims 33-36, Walker, Teng and Official Notice teach all the limitations discussed under claim 31. Walker and Teng do not expressly teach providing services selected from the group consisting of: electric power deliver, fuel delivery, water delivery and secure communication bandwidth delivery. However, modifying Walker and Teng to include this limitation would have been obvious as discussed under claims 15, 16, 18 and 19.

Regarding claim 38, Walker teaches a method for provisioning services in a communication network offered by a service provider for a plurality of parties, comprising:

establishing connections of a plurality of parties to the communication network, said connections comprising respective service interfaces and parameters of respective service provider accounts (Abstract; col. 4, lines 27-30, 41-43 and 46-54);

providing an user interface by which a first party in the plurality of parties identifies attributes of a particular a service to be shared with one or more other parties in the plurality of parties, and to be provisioned by the service provider in the communication network (*Id.*);

offering participation in the particular communication channel to said one or more other parties via an interface by which said one or more other parties may individually signal acceptance the particular communication channel (col. 5, lines 19-34); and

if acceptance of the particular service is signaled, then executing a process to provision the particular service for the first party and said one or more other parties which signaled acceptance (Fig. 14b; and col. 15, lines 53-65).

Walker does not expressly teach verifying that the service provider accounts of the first party and of said one or more other parties support the particular communication channel and offering participation in the particular communication channel having service provider accounts which support the particular communication channel by which said one or more parties may signal acceptance of the service. However, Teng overcomes this deficiency as discussed under claims 2 and 3 above.

The combination of Walker and Teng does not expressly teach a method for provisioning *communication services in a communication network*. However, as discussed under claim 4, it would have been obvious to use the combination of Walker and Teng to provide communication services.

Regarding claim 40, Walker, Teng and well-known principles teach all the limitations discussed under claim 38. The combination of Walker and Teng does not expressly teach the method of claim 38 wherein attributes of the particular communication channel include identifiers of service interfaces for the parties, and data indicating that the channel is to be one of a set including point-to-point, point-to-multipoint, or multipoint-to-multipoint. However, the Examiner takes Official Notice that identifying a client system, such as by an Internet cookie, is old and well-known. The Examiner further notes point-to-point, point-to-multipoint and multipoint-to-multipoint communication channels are old and well-known. Client identifiers provide a means for identifying users and enhance order processing while offering a variety of communication channels would increase sales through product diversity. Therefore, at the time of Applicants' invention, it would have obvious to one of ordinary skill in the art, to modify Walker and Teng to include attributes of the particular communication channel including identifiers of service interfaces for the parties, and data indicating that the channel is to be one of a set including point-to-point, point-to-multipoint, or multipoint-to-multipoint.

Regarding claim 43, Walker, Teng and Official Notice teach all the limitations discussed under claim 38. Walker and Teng do not expressly teach the communication

Art Unit: 1648

network comprising a metropolitan area network, including switches and optical fiber links configured in a tree. However, the Examiner notes this limitation is old and well-known. Therefore, at the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker and Teng to include a communication network comprising a metropolitan area network, including switches and optical fiber links configured in a tree. This combination would enhance the rendition of communication services by improving the routing of data packets.

Regarding claim 45, Walker, Teng and well-known principles teach all the limitations discussed under claim 38. Walker and Teng do not expressly teach providing an interface including displaying an image prompting a user to create a logical instance of the particular service on behalf of the first party. However, this limitation is old and well known as discussed under claim 5.

Regarding claims 46 and 47, Walker, Teng and well-known principles teach all the limitations discussed under claim 40. Walker and Teng do not expressly teach said offering including displaying an image prompting a user to create a logical connection to the logical instance of the particular communication channel to signal acceptance on behalf of the second party. However, this limitation is old and well known as discussed under claim 6.

Regarding claim 48, Walker teaches sending the attributes of the particular communication channel to the service provider for use in provisioning the particular communication channel for the first and second parties (Abstract; col. 4, lines 27-30 and 41-43; and col. 15, lines 53-65).

Regarding claim 49, Walker teaches said providing an interface including establishing a server available to the first party via a public network, to manage the interface (see Abstract).

Regarding claim 50, Walker teaches a server comprising an internet server available to the first party using an internet browser (*Id.*).

Regarding claim 51, Walker teaches an interface comprising an electronic document (*Id.*).

Regarding claim 52, Walker teaches an electronic document including objects compliant with a hypertext markup language HTML standard (*Id.*).

Regarding claim 53, Walker, Teng and well-known principles teach all the limitations discussed under claim 52. Walker and Teng do not expressly teach an interface wherein the HTML standard is XML. However, XML protocol is old and well-known as discussed under claim 14.

Regarding claim 54, Walker teaches providing information via said interface by which said one or more other parties may signal acceptance, the information being associated with said offering from the first party for use by said one or more other parties independent of the service provider (see Abstract).

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Teng, Official Notice and McMillen et al. (US 4,630,258) (“McMillen”).

Walker, Teng and Official Notice teach all the limitations discussed under claim 38. Walker, Teng and Official Notice do not expressly teach said respective service interfaces having “unique network addresses, and said process to provision the particular interface includes establishing a tag to identify packets for use of the particular communication channel, configuring the service interfaces to use tag packets for use of the particular communication channel, and configuring switches in the network to route packets to and from the service interfaces in response to the unique network addresses and the tag in the packets.” However, McMillen teaches a packet-switching system wherein data packets are routed to designated port destinations through routing signals (see Abstract). At the time of Applicants’ invention, it would have been obvious to one of ordinary skill in the art, to modify Walker, Teng and Official Notice to include the teachings of McMillen in order to provide a plurality of destination addresses for the rendering of communication services.

Claims 41 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Teng, Official Notice and Husak (US 6,157,647).

Regarding claim 41, Walker, Teng and Official Notice teach all the limitations discussed under claim 40. Walker, Teng and Official Notice do not expressly teach service interfaces including MAC addresses. However, Husak teaches a method for data transmission wherein a destination address comprises a MAC address (col. 3, lines 30-57). At the time of Applicants’ invention, it would have been obvious to one of ordinary skill in the art, to modify Walker, Teng and Official Notice to include a service

interface comprising a MAC address in order to achieve the transmission of services involving data packets.

Regarding claim 44, Walker, Teng and Official Notice teach all the limitations discussed under claim 43. Walker, Teng and Official Notice do not expressly teach the method of claim 43 wherein said respective service interfaces have MAC addresses, and said process to provision the particular interface includes establishing a VLAN tag to identify packets for use of the particular communication channel, configuring the service interfaces to tag packets for use of the particular communication channel, and configuring switches in the network to route packets to and from the service interfaces in response to the MAC addresses and the VLAN tag in the packets. However, Husak teaches a method for data transmission wherein a destination address comprises a MAC address and a packet identifier comprises a VLAN tag (col. 3, lines 30-57). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker, Teng and Official Notice to include the teachings of Husak in order to achieve the delivery of communication services through the routed transmission of data packets.

Claim 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Teng, Official Notice, McMillen and Husak (US 6,157,647).

Walker, Teng, McMillen and Official Notice in the art teach all the limitations discussed under claim 39. Walker, Teng, McMillen and Official Notice principles does not expressly teach a method wherein the unique network addresses comprise MAC

addresses, and the tag comprises a VLAN tag. However, Husak teaches a method for data transmission wherein a destination address comprises a MAC address and a packet identifier comprises a VLAN tag (col. 3, lines 30-57). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Walker, Teng, McMillen and Official Notice to include a method wherein the unique network addresses comprise MAC addresses, and the tag comprises a VLAN tag in order to achieve the delivery of communication services through the routed transmission of data packets.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

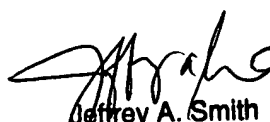
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (571) 272-0773. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JamesHousel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tim Brown
Examiner
Art Unit 1648

tb


Jeffrey A. Smith
Primary Examiner